Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
IP-Enabled Services	)	WC Docket No. 04-36
	)	
E911 Requirements for IP-Enabled Service Providers	)	WC Docket No. 05-196
	)	

REPLY COMMENTS OF WILTEL COMMUNICATIONS, LLC

I. Introduction and Summary

WilTel Communications, LLC ("WilTel")[1] firmly supports the Commission's efforts to ensure that ubiquitous and reliable E911 service continues congruently with the development and deployment of new methods of originating and transporting voice traffic. Through this proceeding,[2] the Commission has worked hard to ensure that end users of IP-originated voice services are not deprived of critical emergency response mechanisms, upon which the American public has come to depend. To achieve this goal, the Commission must act to ensure that those providers offering a substitute for traditional local voice services[3] have fast, reasonable, nondiscriminatory access to monopoly controlled E911 networks. Such access will allow alternative providers to provide these critical services and meet consumer expectations. The Commission also must recognize that it is only in conjunction with services used as replacements for traditional local services (and not, for example, long distance services) that consumers expect to receive E911 services. WilTel therefore agrees with commenters who urge the Commission to

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[1] WilTel is a nationwide, facilities-based provider of interexchange voice, data and IP services. WilTel transports several billion minutes of voice traffic every month across the United States, including IP-originated traffic.
[2] *IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 04-36, WC Docket No. 05-196, *First Report and Order and Notice of Proposed Rulemaking* (Released June 3, 2005) (the "*NPRM*").
[3] For purposes of this pleading, "traditional local services" also include commercial mobile radio services currently subject to E911 obligations.

apply its E911 requirements only to those providers who offer substitutes for traditional local telephone services.

II. VoIP Providers Must Have Nondiscriminatory Access to E911 Networks

The Commission must ensure that local service entrants are able to offer access to emergency services upon which consumers have come to depend using traditional telephone service. In order to achieve this goal, competitive providers must have easy and efficient access to all elements of the E911 infrastructure. WilTel agrees with commenters who argue that giving access to the essential elements needed to provide such service is a critical prerequisite to mandating consumer access to E911 services.[4] As the Commission recognizes, E911 networks are controlled primarily by the incumbent local exchange carriers ("ILECs") who maintain monopoly control over access to the local service markets.[5] Customers of alternative suppliers, however, should not be forced to purchase services from ILECs or CLECs to obtain access to E911 services. To maximize customer choice through IP-originated services, the Commission must require that ILECs grant VoIP providers with immediate, nondiscriminatory access to E911 networks.

Although E911 networks are controlled by ILECs, they are paid for by PSAPs and, ultimately, by the general public through 911 fees and charges.[6] The Commission must ensure that access to publicly-funded E911 networks is available to competitive service providers

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[4] *See, e.g.*, Comments of United Online, Inc., at p. 10 (Commission must ensure access to essential elements of E911 infrastructure such as selective routers, the Automatic Location Information database and other components); *see also Ex Parte* Letter from William B. Wilhelm, Counsel for Vonage Holdings Corp., to Hon. Kevin J. Martin, Chairman, Federal Communications Commission, WC Docket No. 04-36 (dated May 9, 2005) ("*Vonage Ex Parte*") (arguing that imposing a duty on Vonage and similar companies to solve 911 concerns without giving them the means to perform would be an empty gesture). The Commission also recognizes that "compliance with this obligation is necessarily dependent on the ability of the interconnected VoIP providers to have access to trunks and selective routers" via direct connection with ILECs, indirect connection through CLECs, or through third-party providers. *NPRM*, at para. 40.

[5] *NPRM*, at para. 14. A subset of ILECs are the primary entities that control the Selective Routers, ALI Databases, the trunks to carry 911 calls, and sometimes the CPE upon which a PSAP's 911 system is based.

[6] *See, NPRM*, at para. 52.

without unnecessary ILEC-imposed restrictions or conditions and on the same terms and conditions that such access is available to the ILEC itself. To achieve this end, the Commission's rules must, at a minimum, provide that:

- E911 network elements are available to any requesting provider at cost-based rates;
- Interconnection with E911 networks is permitted at any point required by the requesting provider; and
- Granting access to E911 network elements is mandatory and not left to commercial negotiation.

Competitive service providers must be able to interconnect with the ILEC-controlled E911 network elements at cost-based rates. ILECs with monopoly control over access to these networks and CLECs reselling access to E911 elements purchased from ILECs at TELRIC rates pursuant to section 251 interconnection agreements must not be permitted to profit in granting competitive providers access to an infrastructure so critically important to public safety. To do so means that competitive providers will be subsidizing their LEC competitors' services through above-cost payments for access to the publicly-funded E911 infrastructure. It is important, therefore, that the Commission mandate access to the essential E911 network elements[7] to any requesting provider and that CLECs resell access to such elements at cost-based rates.[8]

Further, alternative service providers must be able to interconnect with the ILEC-controlled E911 network elements in a manner that is most efficient given the providers' scale,

[7] The critical E911 network element include the Selective Router, trunk line(s) between Selective Router and the PSAP, the ALI Database, the Selective Router Database, trunk line(s) between the ALI database and PSAP, and the Master Street Address Guide. *See NPRM*, at para. 15.

[8] State commissions already determine appropriate TELRIC pricing of E911 network elements through section 251/252 proceedings, so this Commission simply needs to mandate that LECs grant access to any requesting VoIP provider at established TELRIC pricing in each state.

footprint and technology. A provider should not have to connect with every ILEC 911 tandem just to obtain E911 connectivity in certain geographic locations. Nor should a provider have to go through a lengthy negotiation process to obtain this critical access. The Commission's rules must require ILECs to grant access to their E911 networks at any E911 tandem or E911 central office requested by the provider, so it can provide efficient and reliable E911 services to its customers.[9]

Finally, although some ILECs have indicated they are open to negotiating commercial agreements with competitors for access to the E911 networks,[10] the fact remains that ILECs hold monopoly control over access to the E911 infrastructure and that in the absence of mandatory Commission rules, it is simply unrealistic to expect that competitors will be able to negotiate nondiscriminatory access at just and reasonable rates with their monopoly incumbent rivals. Given the critical nature of the E911 system, consumers cannot afford to rely upon ILECs to act reasonably in opening their networks; instead, WilTel urges the Commission to order all ILECs that control access to E911 networks to open these networks to all service providers under rates, terms and conditions that are cost-based and nondiscriminatory.

III. Any E911 Obligations Must Apply Only to Providers of "Local" Voice Services

Although the Commission imposed E911 obligations on the provision of IP-originated services that substitute for traditional local services, it should not expand its requirements to encompass offerings considered substitutes for services that consumers do not traditionally

[9] Some providers may require access to every E911 tandem and/or central office; whereas, other competitors may only require limited access to a select number of E911 tandems in a given geographic area. Such a determination, however, is clearly best made by the competitive provider, not the ILECs.

[10] *See, e.g., NPRM*, at para. 39, and f.n. 133 (*citing* Letter from Christopher T. Rice, Executive Vice President, Network Planning & Engineering, SBC, to Jeffrey A. Citron, Chairman & CEO, Vonage (dated Apr. 18, 2005) (SBC/Vonage Apr. 18, 2005 Letter) *in* Letter from James K. Smith, Executive Director – Federal Regulatory, SBC Services, Inc. to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-36 at 10 (SBC Apr. 26, 2005 *Ex Parte* Letter) (explaining that SBC currently permits VoIP providers to purchase a tariffed interconnection service called TIPToP and offers access to its Selective Routers and 911 databases pursuant to an optional ancillary agreement).

consider to be local services with 911 capability – *e.g.*, long distance services. The Commission recognized that consumers generally expect 911 services as part of a local service and, accordingly, applied its E911 requirements to "interconnected" VoIP providers only.[11] It then tentatively concluded in the *NPRM* that it should expand its requirements only to reach providers that might emulate Interconnected local providers through separate service offerings that can be combined or used simultaneously or in immediate succession.[12] A number of commenters agreed that only providers that offer both an inbound and outbound capability should be subject to E911 requirements.[13] WilTel concurs. For the reasons explained below, consumers have no expectation that providers of outbound only or inbound only (including but not limited to long distance) services will provide 911 capability, and requiring providers of substitutes for such services is unnecessary and likely to cause customer confusion.

Some commenters appear to urge the Commission to impose E911 obligations on all VoIP services and VoIP service providers, even though the Commission tentatively concludes not to do so. For example, NTCA contends that VoIP providers who enable subscribers to terminate calls to the PSTN should comply with E911 requirements but also recognizes that

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[11] An "Interconnected" VoIP service offering (1) enables real-time, two-way voice communications, (2) requires a broadband connection from the user's location, (3) requires IP-compatible CPE, and (4) permits users generally to receive calls that originate on the PSTN *and* to terminate calls to the PSTN. *NPRM* at para. 24.

[12] *NPRM*, at para. 58.

[13] *See, e.g.*, Comments of AT&T Corp., at p. 10 (makes no sense to place E911 obligations on a carrier providing stand-alone outbound or inbound long distance calling service); Comments of United Online, Inc., at p. 4 (no need to extend E911 obligations beyond two-way interconnected VoIP providers); *see also* Comments of SBC Communications Inc., at p. 5. There are, however, instances where a provider of both inbound and outbound capability should not be subject to E911 requirements. For example, E911 capability should not be expected, nor required, where a VoIP service provider "subcontracts" the function of originating and terminating VoIP traffic to another service provider that is performing this function on behalf of the primary VoIP service provider. The Commission's E911 requirements should apply in such cases only to the primary service provider. In these limited circumstances when a provider is merely providing transport without any ownership of the end user or any of the other attributes applicable to a traditional local telephone service provider, including assignment of NANP numbering resources, the responsibility for providing E911 capability should reside with the primary service provider.

availability of E911 should be based on consumer expectations.[14] NENA argues that all services that can send to the PSTN should be E911 capable, but does not specify which provider would be responsible for providing such capability.[15] These comments do not contradict the Commission's view that consumers should have access to E911 services in conjunction with VoIP services to the same extent they would with traditional telephone services. WilTel agrees with this view insofar as consumers expect to receive 911 service from traditional local telephone but not standalone long distance service providers.

Imposing E911 obligations on companies that do not provide a substitute for local services, on the other hand, would be duplicative and cause consumer confusion. WilTel is a good example. In its provision of telephone services, whether traditional or IP-originated, WilTel transports and terminates long distance calls handed to it by an end user's local service provider.[16] When the end user places a telephone call, the local provider determines how the call must be routed in accordance with the Commission' rules – *i.e.*, a "local" call will be routed to another end user within that same calling area, and a long distance call will be routed to an interexchange carrier such as WilTel for transport and termination outside the calling area. Likewise, in the case of a 911 call, the local provider must route the call to the local PSAP. Just as with traditional telephone service, if an end user of IP-enabled services places a 911 call, the local provider must route that call to the local PSAP, and long distance providers such as WilTel

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[14] Comments of National Telecommunications Cooperative Association, at pp. 2-3. *See also,* Comments of National Association of State Utility Consumer Advocates, at pp. 10-13 ("NASUCA"). Although NASUCA argues that any ability to access the PSTN should require E911 capability, its comments are clearly aimed at supporting the Commission's tentative conclusion that providers that emulate Interconnected local providers through separate service offerings should be E911 capable.

[15] Comments of NENA, at p. 10 (all services that can send to the PSTN should be E911 capable, but not those that receive).

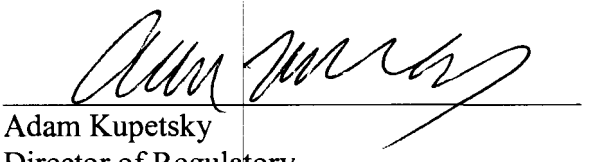
[16] Just as with traditional telephone services, local service providers of IP-originated voice calls are those companies from whom the end user obtains his telephone number (NANP numbers for purposes of identification and routing in the PSTN) and other services such as call-waiting or voice mail. WilTel is unable to terminate calls to end users with a separate local service provider, whether traditional or VoIP.

will never see the call. Requiring WilTel to have E911 capability simply because a call is IP-originated, therefore, is clearly unnecessary and would serve no benefit to consumers.

IV. Conclusion

Clarifying the rules governing 911 service will benefit consumers and service providers, both of which count on the ability to route 911 traffic. In this proceeding, the Commission has the opportunity to break down institutional barriers that make it difficult and expensive to offer alternatives to traditional local phone service. Removing such barriers and ensuring easy, cost-based access to 911 service will increase both the number of competitors and their effectiveness at meeting customer needs.

Respectfully submitted,



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Dated: September 12, 2005